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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by Human Rights Advocates International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

Healthy Environment

1. A healthy environment is crucial to the enjoyment of the right to life. Many developing countries lack the resources and technology necessary to address the environmental hazards posed by the disposal of toxics. Those hazards are further exacerbated by the illicit transfer of toxics from developed countries to the developing world. These transfers violate human rights, particularly the right to life. This is a serious problem, since globally poisonings from pesticides containing highly toxic substances are the cause of 40,000 deaths each year.1

2. The 57th session of the Commission on Human Rights recognizes the environmental and human rights implications stemming from the illicit transfer of toxics.2 Recommendations addressing the problem are included in this statement.

Pesticides and Herbicides

3. Many contend that domestic law in the United States does too little to control hazardous pesticide exports to the developing world.3 Often times, products considered too harmful for use within the U.S. are exported to developing countries with less capacity to address the human health and environmental hazards associated with the use of toxics.4 In fact, roughly 65 million pounds (29.5 million Kilograms) of pesticides exported from the U.S. in 1997-2000 were either forbidden or severely restricted for use in the United States.5

4. In March 1998, 95 governments finalized the text of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Treaty).6 Although the U.S. has yet to ratify the PIC Treaty, in the year 2000, U.S. exports of pesticides subject to the PIC treaty decreased 97% from the 1997 total of nearly 3 million pounds (1.36 million kilograms).7 International efforts to reduce the trade of hazardous pesticides have begun to make progress, however the focus of international efforts should be expanded.

Aerial Spraying of Illicit Pesticides and Herbicides

5. "Plan Colombia" has sought to eliminate cocaine production in Colombia by aerially spraying a highly concentrated chemical toxin sold mainly by U.S. firms, an herbicide

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1 Smith, Carl "Pesticide Exports from U.S. Ports, 1997-2000", *International Journal of Occupational and Environmental Health,* Vol. 7/No. 4, October-December 2001(hereinafter Pesticide Exports)
2 Commission on Human Rights, Adverse Effect of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, Resolution 2001/35 [hereinafter Resolution].
3 Pesticide Exports
4 Id.
5 Id.
6 http://www.chem.unep.ch/pic/incs/dipcon/convsumm.htm
7 Smith, Carl Pesticide Exports from U.S. Ports, 1997-2000 *International Journal of Occupational and Environmental Health,* Vol 7/ No 4, October-December 2001

known as "Roundup Ultra."8 Since the aerial fumigations began, there have been thousands of reports of serious health problems including gastrointestinal disorders (e.g. severe bleeding, nausea, and vomiting), testicular inflammation, high fevers, dizziness, respiratory ailments, skin rashes, and severe eye irritation.9 The spraying may also have caused birth defects and miscarriages. Moreover, villagers report destruction of food crops and livestock, contamination of surface water, damage to surrounding wilderness areas.

6. There is a need for the Commission, particularly the Special Rapporteur on Toxics, to intensify investigations into human rights abuses associated with the illicit export of banned or restricted pesticides and herbicides to developing countries. That includes the exportation of those substances as part of the military or other foreign policy initiatives established by developed countries.

Persistent Organic Pollutants (POPs)

7. With the rise in global trade, these substances now appear in regions where they have never been used of produced. The serious human health threats of POPs led over 100 governments to adopt the Stockholm Convention of 2001, 10 a treaty calling for the reduction and elimination in the releases of these chemicals.11 Twelve chemicals were initially identified – including eight pesticides, two industrial chemicals, such as PCBs, and two by-products of combustion and industrial processes (dioxins and furans).12 It is imperative that governments now ratify the treaty and implement its restrictions, particularly given that children are one of the most vulnerable groups to the impacts of these chemicals. As their organs are developing, exposure to POPs can impact their ability to grow and develop fully, leaving them impaired as adults. As children grow into adults, they continue to carry these persistent organic pollutants. Many people now carry enough POPs in their body fat to cause serious health problems, including reproductive and developmental damage, cancer and immune system disruption.13

8. Recognizing these risks, over 100 countries adopted the Stockholm Convention of 2001 (POPS Treaty). While this is heartening news, even assuming the POPS treaty rapidly comes into force, accurate information will be critical for the proper implementation of the treaty. Moreover, there will still be the need for investigation of human rights abuses associated with the continued transfer of banned chemicals.

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8 Hugh O'Shaughnessy, *Colombia: Chemical Spraying of Coca Poisoning Villages*, THE OBSERVER, June 17, 2001.

9 See, EarthJustice, Written Statement presented to the UN Special Rapporteur on Toxics, December 14, 2001, citing Report of physician's investigation of health impacts of Plan Colombia spraying on Ecuadorian communities near the Colombian border, filed in Venacio Aguasanta Aria, et al. v. Dyncorp, et al. (US District Court for the District of Colombia, Sept. 2001).

10 http://www.chem.unep.ch/pops/ (Official UN POPs Webcite).

11 http://www.earthsummit2002.org/roadmap/pops.htm

12 Id.

13 National Research Council, "Pesticides in the Diet. of Infants and Children." *Nat'l Academy Press*, 1993; see also, http://www.ipen.org/pops_platform.htm#background .

Basel Convention and Ban Amendment

9. Many toxic waste producers from industrialized countries, in order to reduce the costs of proper waste management domestically, export waste to developing countries where regulation is more lenient.14 The 1989 Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and Their Disposal (Convention) addresses this issue.15 The 1995 Ban Amendment bans the export of waste from developed countries to developing countries.16 However, some countries, such as the United States,17 ratified only the Convention without the Ban Amendment.18 This allows the U.S. to continue exporting hazardous substances even though they are banned in the U.S.19

10. In 1988, a cargo ship from Pennsylvania allegedly dumped 4,000 tons of hazardous incinerator ash on a beach in the Haitian port city of Gonaive.20 In handling the waste, workers died and some reported skin lesions and eyesight problems.21 After pressure from U.S. environmentalists and a Haitian environmental group (COHPEDA), the waste was shipped back to the U.S. in 2000 and remains on a barge in a Florida port.22 Although the waste was returned, disposal plans are unknown. A tracking system is necessary to follow waste once it is sent back to the exporting country.

11. Another example in August 2001 involved a Taiwan company (THB) that exported hazardous industrial waste to China.23 THB is a licensed waste handler but not a licensed waste exporter.24 Containers with hazardous waste were mislabeled "residue of copper compounds" to minimize likelihood of inspectors discovering the containers' contents.25 Also, investigation of THB's only waste storage site revealed half of their supposed recorded waste missing.26 The belief is that waste is illegally exported or dumped secretly within Taiwan.27 The need for a more stringent resolution is evident. It is

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14 Green Groups Call on USA to Ratify International Toxic Waste Dumping Ban as Part of Basel Treaty, (visited October 1, 2001) <http://www.ban.org/ban_news/green_groups_call.html>. [hereinafter Green Groups]
15 Id.
16 Id.
17 In August 2001
18 Ratification of Basel Accord without Ban on Exports Opposed by Environment Coalition, (visited October 1, 2001) <http://www.ban.org/ban_news/ratification.html>.
19Bush Expected to Ignore Hazardous Waste Pact, (visited October 1, 2001) <http://www.ban.org/ban_news/ush.html> [hereinafter Bush].
20 Id.
21 Id.
22 Id.
23 Firm "Mishandled" Hazardous Waste, (visited October 1, 2001) <http://www.ban.org/ban_news/firm_mishandled.html> [hereinafter Mishandled]
24 Mishandled, *supra* note 15.
25 Id.
26 Id.
27 Id.

imperative to promote ratification of the Ban Amendment for all countries. Also, a system is necessary to track waste to ensure safe disposal.

Pollutant Release and Transfer Registers (PRTRs)

12. The tracking of toxic chemicals and wastes is critical to preventing human rights abuses. Programs called Pollutant Release and Transfer Registers ("PRTRs") were created by the Organization for Economic Cooperation and Development (OECD).28 PRTRs now operate in Japan, Canada, Mexico, Australia, Norway, U.S., and U.K.29 Those databases, containing inventories of harmful releases to the air, water, and soil as well as wastes transferred off site for treatment and disposal, are needed in many more countries.30 Essentially, PRTRs require reports on the amount and site of specific chemicals released.31 PRTR systems are advantageous because availability of such data enables governments to design and implement efficient pollution prevention and control mechanisms.32

Shipbreaking

13. Shipbreaking releases harmful substances such as dioxin, sulfur, mercury, lead, and petroleum.33 Shipbreaking occurs in unsound environmental conditions and unsophisticated technologies are resulting in sickness among workers. Since shipbreaking poses health risks, developed countries export ships to developing countries, avoiding health and environmental dangers.

14. India has been one of the countries hardest hit by the safety hazards of shipbreaking. India currently breaks 42% of ships that are dismantled annually. Other shipbreakers are Bangladesh at 7%, Pakistan at 6%, and China at 4%.34

15. Shipbreaking in Alang, India has filled the soil and water with dangerously high levels of toxic waste.35 The dangers pose a direct threat to the rights to life and health. It is necessary to provide technology for safer shipbreaking and to specify the means of disposal.

16. A recent U.S. administrative decision offers vessels to shipbreakers free of charge with a $200/tonne subsidy.36 The plan allows scrapping of six vessels annually with an increase

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28 OECD's Work on Pollutant Release and Transfer Registers (PRTRs), (visited October 15,2001) <http://www1.oecd.org/ehs/prtr/>.
29 International TRI, (visited October 15, 2001) <http://www.epa.gov/tri/prtrs.htm>.
30 Id.
31 Id
32 Id.
33 *International Experts Work Toward "Greener" Ship Scrapping Rules*, SOLID WASTE REPORT, July 12, 2001. [hereinafter Waste Report]
34 Waste Report, *supra* note 26.
35 Shantanu Guha Ray, *Junkyard Scrapped: Alang Shipbreakers Look Westwards as Orders Stop Coming*, OUTLOOK INDIA.COM (visited October 1, 2001) <http://www.ban.org/ban_news/junkyard.html>.
36 Id.

in the number and subsidy budgets annually.37 The plan requires breaking ships in Brownsville, Texas using domestic labor or persons with work permits from neighboring countries.38 Concerns abound that there will be insufficient training and unsafe working conditions, thereby continuing the dangers resulting from shipbreaking.39 Additionally, tracking is necessary because it is unclear where the scraps of broken ships will be dumped.

Recommendations

17. HRA continues to support the work of the Special Rapporteur and in particular, requests the Commission to ask her to:

    - Consider the effects of the use of toxics on human rights, such as effects of aerial spraying, and ensure proper training and equipment for handlers of toxics; and
    - Address the issue of tracking systems for toxics.

18. HRA requests that the Commission encourage governments:
    - To ban the export of toxics that are banned domestically;
    - To ratify the Basel Convention and Ban Amendment; and
    - To create PRTR systems.

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37 Id.
38 Id.
39 Id.